

THE NAVAJO NATION
LEGISLATIVE BRANCH
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LEGISLATION NO: _0240-23_

SPONSOR: Seth Damon

TITLE: An Action Relating to an Emergency for the Navajo Nation Council; Approving \$50,000 from the Unreserved, Undesignated Fund Balance (“UUFB”) for the Lexington Hotel Homeless Shelter to Continue its Operations; Waiving Certain Provisions of the FY2024 Budget Instructions Manual to Allow for Direct Payment

Date posted: October 17, 2023 at 1:14PM

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SUMMARY OF PROPOSED LEGISLATION

Tracking No. 0240-23

DATE: October 17, 2023

RE: AN ACTION RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL; APPROVING \$50,000 FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE (“UUFb”) FOR THE LEXINGTON HOTEL HOMELESS SHELTER TO CONTINUE ITS OPERATIONS; WAIVING CERTAIN PROVISIONS OF THE FY2024 BUDGET INSTRUCTIONS MANUAL TO ALLOW FOR DIRECT PAYMENT

Purpose of this Legislation:

to approve \$50,000 from the UUFb for the Lexington Hotel homeless shelter to remain open and operating.

OLC No. 23-504-1

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

25th NAVAJO NATION COUNCIL - First Year, 2023

Introduced by:

Handwritten signatures and scribbles are present around the resolution text, including a large signature on the left side and several others on the right side.

(Prime Sponsor)

Tracking No. 0240-23

AN ACTION

**RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL;
 APPROVING \$50,000 FROM THE UNRESERVED, UNDESIGNATED
 FUND BALANCE ("UUFb") FOR THE LEXINGTON HOTEL HOMELESS SHELTER
 TO CONTINUE ITS OPERATIONS; WAIVING CERTAIN PROVISIONS OF THE
 FY2024 BUDGET INSTRUCTIONS MANUAL TO ALLOW FOR DIRECT PAYMENT**

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).

As such, the Council may consider emergency legislation. 2 N.N.C. §164(A)(16). "[M]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, . . . or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council." 2 N.N.C. §164(A)(16).

B. As the governing body of the Navajo Nation, the Council may approve supplemental appropriations during the fiscal year. "Supplemental appropriations of General Funds within the current fiscal year are permitted, if and when additional sources of revenues above and beyond the initial or current revenue projections are projected and which are also in excess

1 of the reserve amount set forth at §820(J).” 12 N.N.C. §820(L).

2 C. A “supplemental appropriation” is defined as: “[a]n appropriation of funds from the UUFB
3 during the fiscal year, outside of the annual Comprehensive Budget Process.” See Section
4 2(37) of the FY2024 Budget Instructions Manual.

5 D. Further Title 12 restrictions on supplemental appropriations, including all amounts from the
6 UUFB include:

7 1. Payment of recurring government operating expenses shall be from recurring
8 revenues, and payment of nonrecurring government expenses shall be from
9 nonrecurring revenues such as UUFB funds. 12 N.N.C. §820(E); 12 N.N.C.
10 §820(F).

11 2. Specifically, the UUFB shall not be used for recurring government expenditures or
12 operations. 12 N.N.C. §820(J); 12 N.N.C. §820(L).

13 3. Nonrecurring revenues such as UUFB funds may be used only after the Controller
14 determines if such revenues are subsidizing an imbalance between the Navajo
15 Nation’s recurring revenues and expenditures, and government expenditures shall
16 only be authorized if a long-term (3-year to 5-year year) forecast shows that the
17 operating deficit will not continue; otherwise, nonrecurring revenues will be added
18 to the UUFB. 12 N.N.C. §820(F).

19 4. The above provisions in Title 12 may be amended or waived by a two-thirds vote
20 of the full membership of the Navajo Nation Council. 12 N.N.C. §820(F); 12
21 N.N.C. §880.

22 5. Pursuant to 12 N.N.C. §820(F) all UUFB funding requests must be reviewed by
23 the Controller, to ensure compliance with 12 N.N.C. §820(L).

24 6. Pursuant to 12 N.N.C. §820(M) all UUFB funding requests must be submitted to
25 the Office of Management and Budget (“OMB”) for a budget impact analysis.

26 E. This resolution is being offered as an emergency action because the Lexington Hotel in Gallup,
27 NM, a long-time provider of temporary shelter for the homeless, is facing imminent closure.
28 Its closure will mean that many of our Diné relatives will have no temporary place to stay,
29 to keep warm, and to get food and other basic necessities. The Hotel will close on December
30 31, 2023 if sufficient operating funds are not provided, and the City of Gallup has requested

1 \$50,000 from the Navajo Nation to keep the Hotel open and operating. A letter from the City
2 of Gallup to Navajo Nation President Nygren, dated September 14, 2023, is attached hereto
3 as **EXHIBIT A**.

4
5 **SECTION TWO. FINDINGS**

6 A. The Lexington Hotel provides critical support services for many Navajos and other transients
7 in the Gallup area. **EXHIBIT B**. Over 85% of the residents identified as Native American.
8 **EXHIBIT C**. The Hotel's monthly operating budget is nearly \$152,000. **EXHIBIT C**.
9 Without the Hotel, many persons face a danger to their lives and health, because they will be
10 without shelter, food, and basic needs, and some may face death from exposure during the
11 cold winter season.

12 B. Navajo Nation Budget Forms for the requested supplemental appropriation from the UUFB
13 have been provided. **EXHIBIT D**.

14 C. The Office of the Controller has provided a memorandum as required by 12 N.N.C. §820(L).
15 This memorandum indicates that the proposed expenditures are *non-recurring*. **EXHIBIT E**.

16 D. The Office of Management and Budget has provided a memorandum as required by 12 N.N.C.
17 §820(M). **EXHIBIT F**.

18 E. The District 6 Joint Council has indicated its support for this \$50,000 appropriation for the
19 Hotel. **EXHIBIT G**.

20 F. The Navajo Nation finds that approving the requested \$50,000 to keep the Lexington Hotel
21 open and operating is in the best interest of the Navajo Nation and our Diné relatives.

22
23 **SECTION THREE. APPROVING \$50,000 FROM THE UNRESERVED,
24 UNDESIGNATED FUND BALANCE ("UUFB") FOR THE
25 LEXINGTON HOTEL HOMELESS SHELTER TO CONTINUE
26 ITS OPERATIONS; WAIVING CERTAIN PROVISIONS OF THE
27 FY2024 BUDGET INSTRUCTIONS MANUAL TO ALLOW FOR
28 DIRECT PAYMENT**

29 A. The Navajo Nation hereby approves \$50,000 from the UUFB to the City of Gallup to keep the
30 Lexington Hotel open and operating for the foreseeable future.

1 B. This supplemental appropriation shall be from those funds that exceed the minimum fund
2 reserve balance in the UUFB required by 12 N.N.C. §820(J), as determined by the Controller.

3 C. Immediately upon the effective date of this Action, the approved UUFB funds shall be
4 provided by direct payment to the City of Gallup, via a check issued by the Office of the
5 Controller.

6 D. The Navajo Nation hereby waives the provisions under Section 11 of the FY2024 Budget
7 Instructions Manual, to allow for direct payment of the approved \$50,000 to the City of Gallup.

8
9 **SECTION FOUR. EFFECTIVE DATE**

10 This Action shall become effective as provided in 2 N.N.C. §221(B) and 2 N.N.C. §164(A)(17).

11
12 **SECTION FIVE. SAVING CLAUSE**

13 If any portion of this Action is determined invalid by the Navajo Nation Supreme Court, or by a
14 District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, the
15 remainder of this Action shall be the law of the Navajo Nation.